

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MILDRED W. FINCH, et al.,)	CASE NO. 1:02-cv-00132-SSB-TSH
)	
Plaintiffs,)	JUDGE SANDRA S. BECKWITH
)	
vs.)	SANITEC, LTD.'S REPLY TO
)	RESPONSE FILED BY DAN L.
GEORGE FIORINI, dba FIORINI)	MAKEE AND RICHARD J. OPARIL
AGENCY, et al.,)	TO THIS COURT'S JANUARY 16,
)	2004 SHOW CAUSE ORDER
Defendants.)	

The information put before this Court by Dan Makee and Richard Oparil is, unfortunately, inaccurate.

Sanitec, Ltd. is a party in this litigation.¹ It is undisputed that Sanitec, Ltd. is owned by Sanitec Worldwide, Ltd., and that Sanitec Worldwide, Ltd. is owned 49% by Salem Associates, Inc. and 51% by Windsor Holdings, LLC. The Windsor Trust, of which James Smith and Jeffrey Weinsten are the sole trustees, owns all of Windsor Holdings, LLC.

Windsor Holdings was organized by attorney Mitchell Miller in July 2001 at the request of his client, Terrance Quinn. See Affidavit of Mitchell Miller, a copy of which is attached to Exhibit 3 of to Makee and Oparil's Response Brief. In June 2002, Quinn created the Windsor

¹ In mid-November 2003, attorneys Dan L. Makee and Richard J. Oparil entered their notices of appearance in this matter, purportedly on behalf of Defendant Sanitec, Ltd. As a direct result of questions about whether they in fact have the authority to represent Sanitec, Ltd., this Court ordered that they show cause why a motion to dismiss, filed by them purportedly on behalf of Sanitec, Ltd., should not be stricken. In that same Order, this Court also provided that once Messrs. Makee and Oparil responded to the show cause order, "any party or attorney who wishes to reply may do so on or before February 20, 2004." This filing is made pursuant to that Order.

Trust into which he transferred all of the ownership and assets of Windsor Holdings. In so doing, Quinn appointed James Smith and Jeffrey Weinsten as trustees of the Trust.

Neither Quinn nor Miller ever transferred – or ever intended to transfer – any ownership of or authority over Windsor Holdings to David Kaye or to James Harkess.² See, *id.* It is Smith and Weinsten alone, then, who speak for and act on behalf of Windsor Holdings.

Messrs. Makee and Oparil have no authority whatsoever to speak on behalf of Sanitec, Ltd. The filings made by them purportedly on behalf of Sanitec, Ltd. should be stricken.

Further, in the interest of consistency and judicial economy – and in the interest of expediting any possible settlements of this and related cases – this Court should be apprised that the proper legal representation of Sanitec, Ltd. is the subject of an imminent hearing in the United States District Court for the Northern District of Ohio in the related case of Sanitec West v. Delloiacovo, case number 1:02 CV 01582, pending before Judge Donald C. Nugent. This Court may wish to learn of the results of that hearing before taking further action regarding or affecting Sanitec, Ltd. in this action.

Respectfully submitted,

² Messrs. Makee and Oparil claim Windsor Holdings is owned by James Harkess because of documents executed by David Kaye. But, in fact, Kaye never had any independent authority to take any action on behalf of Windsor Holdings, never had any ownership of Windsor Holdings, and never had any authority or ability to transfer ownership of Windsor Holdings to anyone, including to James Harkess. Neither Kaye nor Harkess have any interest in – nor have they ever had any interest in – Windsor Holdings, and any documents purporting to say otherwise are necessarily fraudulent. See Exhibit 3 attached to Makee and Oparil's Response Brief.

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CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2004, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Steven J. Miller

STEVEN J. MILLER